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STATE OF COLORADO

COLORADO DEPARTMENT OF HEALTH
Dedicated to protecting and improving the health and
environment of the people of Colorado

APR 1994

APR 27 8 23 AM '94



Roy Romer
Governor

Patricia A. Nolan
Executive Director

DUE
DATE

ACTION

DIST. LT- ENC.

BERMAN, H.S.

CARNIVAL, G.J.

COPP, R.D.

CORDOVA, R.C.

DAVIS, J.G.

FERRERA, D.W.

FRANZ, W.A.

HANNI, B.J.

HEALY, T.J.

HEDAH, T.G.

HILBIG, J.G.

HUTCHINS, N.M.

KELL, R.E.

KIRBY, W.A.

KUESTER, A.W.

MAHAFFEY, J.W.

MANN, H.P.

MARX, G.E.

MCKENNA, F.G.

MORGAN, R.V.

PIZZUTO, V.M.

POTTER, G.L.

SANDLIN, N.B.

SATTERWHITE, D.G.

SCHUBERT, A.L.

SETLOCK, G.H.

STIGER, S.G.

SULLIVAN, M.T.

SWANSON, E.R.

WILKINSON, R.B.

WILSON, J.M.

Busby W X

Anderson GA X

CORRES CONTROL x x

DMN RECORD/080

ATS/T130G

Reviewed for Addressee
Corres. Control RFP

4/27/94 Cm

DATE BY

Ref Ltr. #

DOE ORDER # 5400.3

1300 Cherry Creek Dr. S.
Denver, Colorado 80222-1530
Phone (303) 692-2000

Laboratory Building
4210 E. 11th Avenue
Denver, Colorado 80220-3716
(303) 691-4700

RECEIVED

CERTIFIED MAIL # P392 782 241
Return Receipt Requested

April 20, 1994

Mr. Richard J. Schassburger
U.S. Department of Energy
Rocky Flats Plant
Building 116
P. O. Box 928
Golden, Colorado 80402-0928

RE: Request for Extension, Draft & Final Phase I RFI/RI Report for OU 12

Dear Mr. Schassburger,

The Colorado Department of Health, Hazardous Materials and Waste Management Division (the Division) and the U. S. Environmental Protection Agency (EPA) have received and considered DOE's April 4, 1994, request for a modification to work for the Final OU 12 RFI/RI Workplan and schedule extension for the submittal of the Draft and Final OU 12 RFI/RI Report (94-DOE-03456). For the specific reasons set forth below, the Division, acting as lead regulatory agency, hereby denies your request for a schedule extension and, as of your receipt of this letter, DOE will be in violation of the IAG.

Once again, DOE is attempting to convince CDH and EPA that extensions to the milestones for submittal of the Draft and Final RFI/RI Report for OU 12 are justified because of a proposal to modify work. This argument is not accepted. DOE remains liable for any delay incurred as a result of 1) a failure on DOE's part to secure adequate funding under the terms of the IAG, and 2) a unilateral DOE-REF decision to allocate no funding to OU 12 for RFI/RI implementation.

DOE is notified, therefore, that stipulated penalties will accrue automatically from the date DOE receives this letter for the Draft OU 12 RFI/RI Report, on September 15, 1994, for the Final OU 12 RFI/RI Report. Through the IAG, DOE has agreed to pay up to \$5,000 for the first week and \$10,000 for each week thereafter for the late submittal of primary documents. Penalties will continue until such time that a satisfactory draft and final report are submitted. We will consider the draft and final OU 12 RFI/RI Reports to have been submitted when we receive reports which document completion of efforts as specified in approved Workplans and any subsequent amendments thereto. These efforts must be designed to support the decision process required to identify a final remedy/closure for IHSSs within 12.

In addition, DOE's statement that the proposed modification justifies the extension request is completely untenable in that you are asking for more time to do less work. DOE must realize that we cannot, and will not, approve either open-ended modifications to work or open-ended extension requests.

The agencies are aware that the issue of accessibility was raised during OU 12 Workplan development. The agencies understood that the scope of work included

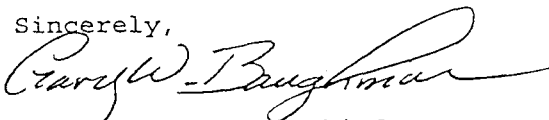
the approved Workplan was already based on the accessible portions of OU 12. This was evidently not the case even though there are several portions of the approved Workplan that recognize portions of the OU are inaccessible. Because your letter does not define the portions of the OU 12 Workplan that cannot be implemented because of previously unidentified access problems, and does not propose any alternatives, your request for a modification to work is not supportable at this time.

The issue of the changed mission for the Rocky Flats Plant may be a reason for modifying certain portions of the OU 12 Workplan, once a properly scoped and approved modification is developed. It is not, however, justification for a schedule extension. The fact that almost none of the work planned for OU 12 has yet been implemented is not a function of the new plant mission. Rather, as mentioned previously, it is a function of inadequate funding and DOE's unilateral decisions on funding allocation.

The agencies continue to support the efforts underway to revise and revamp the cleanup strategy for the industrialized area. We have stated since at least March, 1993, that we believe these efforts are warranted. We have given informal response to ideas forwarded by both DOE and EG&G but have yet to receive any formal proposal. So far, it is not evident that our responses and comments have had any effect. Regardless, the present opportunity to restructure work in the industrialized area is a result of not only the plant's mission change, but DOE's non-performance of industrialized area IAG work. It must be clear that DOE remains liable for this non-performance.

If you have any questions concerning these issues, please contact Joe Schieffelin of my staff at 692-3356.

Sincerely,



Gary W. Baughman, Chief
Facilities Section
Hazardous Waste Control Program

cc: Daniel S. Miller, AGO
Jackie Berardini, CDH-OE
Martin Hestmark, EPA
Gary Kleeman, EPA
Bruce Thatcher, DOE
Wanda Busby, EG&G
Greg Anderson, EG&G